

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

WP(C).No. 21261 of 2007(F)

PETITIONER:

SMT.C.ANANDAVALLY,
W/O SURENDRAN NAIR, AGED 37 YEARS,
TEACHER, SREE NARAYANA SCHOOL, WAYANAD,
RESIDING AT CHERUVANATHIL HOUSE,
KAKKUR P.O., KOZHIKODE DISTRICT.

BY ADV. SRI.P.S.SREEDHARAN PILLAI
SMT.C.G.PREETHA
SMT.P.RANI DIOTHIMA

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.
2. KERALA STATE PUBLIC SERVICE COMMISSION,
THIRUVANANTHAPURAM.
3. THE DEPUTY DIRECTOR OF EDUCATION,
OFFICE OF THE DEPUTY DIRECTOR OF EDUCATION,
KOZHIKODE.

BY GOVT.PLEADER SRI.A.J.VARGHESE.
STANDING COUNSEL FOR PSC SRI.P.C.SASIDHARAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

Dated this the 10th day of August, 2007.

J U D G M E N T

Petitioner was admittedly included in the ranked list prepared by the Kerala Public Service Commission for appointment to the post of Upper Primary school Assistant in Kozhikode District.

2. Pursuant to her inclusion in the list, petitioner was issued Ext.P1 advice memo dated July 19, 1999. Thereafter the Deputy Director or Education, Kozhikode issued Ext.P2 order of appointment dated July 29, 1999 appointing her at Government Upper Primary school, Nadakkavu West in Kozhikode city. But the petitioner did not join duty. On the contrary, she submitted a representation before respondent No.1 seeking extension of joining time by 45 days. She informed the Government that she could not accept the appointment for the time being, because of the clause in the advice memo issued by the Commission stipulating that her advice was provisional and subject to final orders in the WA.744/99 pending before this Court.

3. It is the admitted position that during that period, petitioner was working as HSA (Malayalam) in an aided school at Wayanad. Initially the Government had extended the joining time till September 1, 1999. On a further request made by the petitioner time was further extended upto December 4, 1999. The last orders of extension passed by the Department and the Government in this regard are on record as Exts.P3 and P4 respectively. Even thereafter petitioner did not join duty.

4. It is the contention of the petitioner that she had submitted a representation before the Minister for Education after disposal of the Writ Appeal praying to issue appropriate orders appointing her on the basis of her inclusion in the ranked list referred to above. Ext.P5 is stated to be the representation submitted by the petitioner which does not bear any date.

5. Anyhow, by communication dated April 16, 2007, the Deputy Director of Education, Kozhikode informed the petitioner that her request for allowing her to join duty by extending the joining time cannot be allowed. It is seen from Ext.P6 order that the said decision was taken by the Deputy Director of Education pursuant to a direction issued by this Court in OP.434/2002, after hearing the petitioner. Petitioner has filed this writ petition challenging Ext.P6 order passed by the Deputy Director rejecting her claim for a direction to the Department to appoint her as UPSA.

6. Having heard learned counsel for the petitioner, the learned Standing Counsel for the Commission and the learned Government Pleader, I do not find any merit in any of the contentions raised by the petitioner. It may be true that in Ext.P1 advice memo a rider was incorporated to the effect that the advice was provisional and subject to final orders in WA.744/99, pending before this Court. Admittedly petitioner was not a party to the writ appeal which was filed by some other candidate. The Writ Appeal was disposed of in the year 2006. But the petitioner was not prepared to accept the advice memo since it contained a rider as indicated above. It is also admitted by the

petitioner that she was reluctant to accept the offer of appointment since she was employed as a High School Assistant (Malayalam) in an aided school at that time. Obviously petitioner did not want to take a risk as is conceded by her.

7. It is pointed out by the Commission in its counter affidavit that the non joining duty vacancy which was reported consequent on the reluctance of the petitioner to join duty was reported to the Commission on November 12, 2003. The said NJD vacancy was filled up thereafter by a substitute on 9/1/2004. The list which had come into force in the year 1997 had expired a long time ago.

8. Having regard to the entire facts and circumstances I am of the view that petitioner cannot be granted any relief. The Government had shown enough indulgence when the joining time was extended on two occasions. But still she did not avail of that opportunity. She wanted her own condition to be accepted by the Commission and the appointing authority. That could not have been permissible. There is no merit in any of the contentions raised by the petitioner.

Writ Petition fails. It is accordingly dismissed.

A.K. Basheer
Judge.

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